

Franchise Tax Board**ANALYSIS OF ORIGINAL BILL**

Author: Eng Analyst: William Koch Bill Number: AB 1957
Related Bills: See Legislative History Telephone: 845-4372 Introduced Date: February 13, 2008
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Require Taxpayers To Report & Pay Qualified Use Tax On Income Tax Forms/Operative for Returns Filed For Taxable Years Beginning On and After January 1, 2009

SUMMARY

This bill would require a taxpayer that fails to report and remit a use tax obligation directly to the State Board of Equalization (BOE) to report and remit the use tax obligation with the state income tax return, which is currently an option.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to improve voluntary compliance with state use tax laws.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative for taxable years beginning on or after January 1, 2009, and would apply to purchases of tangible personal property made on or after that date.

POSITION

Pending.

ANALYSIS**STATE LAW**

BOE is responsible for collecting sales and use tax. California use tax is imposed on any person who purchases tangible personal property for use, consumption, or storage in this state where the purchase is not subject to California sales tax. Generally, use tax is owed when the purchase is made outside of California, but the property is used in California. A typical purchase subject to California use tax is a purchase shipped from an out-of-state retailer to a California consumer. The state use tax rate is the same as the sales tax rate, which varies between 7.25% and 8.75% depending on the county and city within California. Taxpayers may report and pay state use tax directly to BOE or beginning in 2004, have the option of reporting and paying use tax on their California income tax return.

Board Position:

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|-----------------------------|------------------------------|---|
| <input type="checkbox"/> S | <input type="checkbox"/> NA | <input type="checkbox"/> NP |
| <input type="checkbox"/> SA | <input type="checkbox"/> O | <input type="checkbox"/> NAR |
| <input type="checkbox"/> N | <input type="checkbox"/> OUA | <input checked="" type="checkbox"/> PENDING |

Department Director

Date

Selvi Stanislaus

3/7/08

THIS BILL

In the case where a taxpayer fails to report and pay use tax directly to BOE, this bill would eliminate the current election to report and pay use tax on the state income tax return and would instead make it a requirement.

Under this bill, administrative functions regarding use tax would remain divided between Franchise Tax Board (FTB) and BOE. FTB would process and collect use tax reported on income tax returns, while BOE would retain responsibilities for auditing, collecting, and processing claims for refund of use tax.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not impact the department's programs and operations.

TECHNICAL CONSIDERATIONS

Amendment 1 has been provided to correct a technical error.

LEGISLATIVE HISTORY

AB 969 (Eng, 2007/2008) contained similar provisions to this bill. AB 969 was vetoed by the Governor. In his veto message, Governor Schwarzenegger stated, "Although increasing use tax reporting is desirable, I have concerns that the effective date of January 1, 2008, is too soon for taxpayers to compile adequate records of their purchases that are subject to the use tax for calendar year 2007. Further, I would like to see a plan to better educate taxpayers on the use tax, as I suspect that many taxpayers have little knowledge of the tax and may unknowingly fail to pay it."

SB 1009 (Alpert, Stats 2003, Ch. 718) added the election for taxpayers to report and pay use tax on their state income tax returns.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

This bill would not impact state **income tax** revenues. No estimate is provided by FTB of the impact to state **use tax** revenues.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENT TO AB 1957
As Introduced February 13, 2008

AMENDMENT 1

On page 7, line 10, after "years" and before "on", insert:
beginning